

Patent  
Serial No. 10/518,252

Amendment in Reply to Final Office Action of August 4, 2006

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated August 4, 2006. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-16 are pending in the Application. Claims 1, 7 and 15 are independent claims.

In the Final Office Action, the Examiner stated that all references to the claims in the specification must be deleted. The specific references to the claims have been deleted from the specification. Accordingly, withdrawal of this rejection is respectfully requested.

In the Final Office Action, Claims 1-6, and 14-16 are rejected under 35 U.S.C. §101 allegedly for being "merely drawn to data on a medium". This rejection is respectfully traversed.

The MPEP section IV.B.1(a), paragraph 1 makes clear that (emphasis added), "...a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the medium which permit the data structure's functionality to be realized, and is thus statutory." The language "[a] data carrier comprising

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demonstration control data configured to control a demonstration of an inherent function of a playback device..." in independent claims 1 and 15 of the present application defines the "structural and functional interrelationships" between the "demonstration control data" and the "data carrier". Accordingly, it is respectfully submitted that claims 1 and 15 are drawn to statutory subject matter. It is therefore respectfully requested that this rejection under 35 U.S.C. § 101 be withdrawn. Moreover, claims 2-5, 14 and 16 describe further structural and functional interrelationships and accordingly, are also allowable and an indication to that effect is respectfully requested.

In the Final Office Action, Claims 1-4, 6-11 and 13-16 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by Japanese Patent Publication No. JP 06-118914 to Katsutoshi ("Katsutoshi"). Claims 5 and 12 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Katsutoshi in view of U.S. Patent No. 6,020,886 to Jacober ("Jacoher").

Katsutoshi shows a system to provide an automatic demonstration device which eliminates the need for a program dedicated to demonstration. A program which provides the original function of the device is stored in the ROM 12 and reference data

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and demonstration data are stored on the external medium 19 (see, Katsutoshi, FIGs. 1 and 2 and the abstract).

In review of the Final Office Action, it appears that there is confusion as to what is intended by the previously submitted claims. Accordingly, the claims are amended herein to clarify what was intended. It is respectfully submitted that this amendment to the claims is only provided to clarify the claims and are not provided for the purpose of patentability. Accordingly, it is respectfully submitted that the present claims are entitled to a full range of equivalents under the doctrine of equivalents.

It is respectfully submitted that the data carrier of Claim 1 is not anticipated or made obvious by the teachings of Katsutoshi. For example, Katsutoshi does not disclose or suggest, a data carrier that amongst other patentable elements, comprises (illustrative emphasis provided), "[a] data carrier comprising demonstration control data configured to control a demonstration of an inherent function of a playback device wherein the inherent function includes use of an external data network wherein the data carrier is configured to simulate access to the external network regardless of whether the external data network is currently available." as required by independent claim 1 and as substantively

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required by claims 7 and 15. Jacober is cited for other reasons which do not cure the deficiency in Katsutoshi.

The claims accordingly require at least an inherent function of a playback device that includes use of an external data network. Further, the claims, such as for example Claim 1, require that (illustrative emphasis added) "the data carrier is configured to simulate access to the external network regardless of whether the external data network is currently available."

The Final Office Action takes the position at page 4, last paragraph to page 5, 1st paragraph, that the external network in claim 1 of the present application can be interpreted as "any external element connected to the optical head...". Further, the Final Office Action points to CPU 11 and ROM 12 as an external network. However, even if in arguendo, CPU 11 and ROM 12 were viewed as an external network that the system of Katsutoshi has access to, it is still deficient because the system in Katsutoshi is not configured to simulate access to the external network regardless of the external data network being currently available.

Based on the foregoing, the Applicant respectfully submits that independent Claims 1, 7 and 15 are patentable over Katsutoshi and notice to this effect is earnestly solicited. Claims 2-6, 8-14

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and 16 depend from one of Claims 1 and 7 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of said claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

It is believed that no additional fees or charges are currently due beyond the Request for Continued Examination (RCE) fee to be charged to the credit card as noted by the enclosed authorization. However, in the event that any additional fees or charges are required for entrance of the accompanying amendment, they may be charged to Applicants' representatives Deposit Account No. 50-3649. In addition, please credit any overpayments related to any fees paid in connection with the accompanying amendment to

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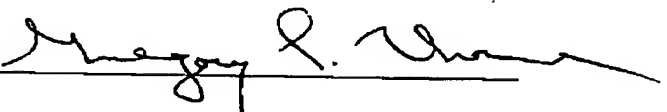
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Deposit Account No. 50-3649.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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September 14, 2006

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